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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

In re:

CLUB ONE CASINO, INC.,
 Debtor-in-Possession.

Case No. 15-14017-B-11

Chapter 11

DC No. KDG-1

Date: November 10, 2015

Time: 2:30 p.m.

Place: United States Bankruptcy Court
 2500 Tulare Street, Fifth Floor
 Department B, Courtroom 13
 Fresno, California

Judge: Honorable René Lastreto II

**DEBTOR'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE
 IN SUPPORT OF OPPOSITION TO MOTION TO USE CASH
COLLATERAL AND GRANT ADEQUATE PROTECTION**

Club One Casino, Inc. ("Debtor") objects to the Request for Judicial Notice ("Request") filed by George Sarantos ("Sarantos") and Elaine Long ("Long") asking the Court to take judicial notice of a declaration by Charles A. Hansen filed in support of a motion for preliminary injunction sought in state court ("Declaration"). The Declaration is attached to the Request as Exhibit "C."

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1 Debtor objects to the admission of the Declaration into evidence because (1) the
2 Hansen Declaration is not properly the subject of judicial notice under FRE 201 since it does
3 not contain any judicially noticeable facts, (2) the Declaration is not relevant to the *Motion to*
4 *Use Cash Collateral and Grant Adequate Protection* (“the Motion”) and must be excluded
5 from evidence under FRE 401, (3) the Declaration is incomplete and Debtor should have right
6 to cross examine Mr. Hansen, and (4) the Declaration is argumentative and more prejudicial
7 than probative under FRE 403.

8 **Judicial Notice under Rule 201:** A judicially noticed fact must be one “not subject to
9 reasonable dispute” in that it is either (1) generally known within the territorial jurisdiction of
10 the trial court or (2) capable of accurate and ready determination by resort to sources whose
11 accuracy cannot reasonably be questioned. FRE 201(b). There is no single fact or set of facts
12 contained in the Declaration that Sarantos and Long have identified as qualifying as judicially
13 noticeable. To the contrary, Debtor disagrees with and disputes the majority of the
14 Declaration.

15 **Relevance:** Evidence must be relevant to the issue before the Court. *See*, FRE 401.
16 Here, the issue before the Court is the use of cash collateral. The Declaration and the
17 testimony contained in the Declaration are irrelevant to the issues before the Court on the
18 Motion.

19 **Incomplete and Cross Examination:** The Declaration is incomplete. The Declaration
20 refers to three exhibits, none of which are attached. Debtor believes that the Declaration is
21 inadmissible. However, if it were to be admitted, the entire Declaration must be admitted
22 under FRE 106 and Debtor must have the ability to cross-examine Mr. Hansen under FRE 611.

23 **Argumentative:** Evidence must be more probative than prejudicial. *See*, FRE 403.
24 The Declaration is argumentative rather than evidentiary in that it argues Sarantos and Long’s
25 position as opposed to be a balanced analysis of the facts to form an expert opinion. The
26 argumentative nature of the declaration is seen in the adverbs and adjectives used by Hansen to
27 describe the events in a negative light.

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1 For each of the forgoing reasons, Debtor objects to the Declaration and respectfully
2 requests that the Declaration not be admitted into evidence under FRE 106, 201, 401, 403, and
3 611.

4 Date: November 6, 2015

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By:


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Proposed Attorneys for Debtor in Possession